

REMARKS

1. *Status of claims*

After entry of the above amendment, claims 1-8, 10-17, 19-21, 23-42, and 45-49 are pending and under consideration.

2. *Support for amendment*

The amendment of claims 1 and 36 corrects inadvertent grammatical errors. The amendment of claims 3, 16, 37, and 47-49 is presented to enhance the readability of these claims. No new matter has been added by these amendments.

3. *Claim rejections under 35 U.S.C. §112*

The Examiner rejected claims 36-39 under 35 U.S.C. §112, second paragraph, as being indefinite. Specifically, claim 36 originally read, in part, "...or acrylonitrile, poly(vinylidene dichloride)...." By the above amendment, claim 36 is amended to correct this inadvertent grammatical error. Applicants submit the basis for this rejection of claims 36-39 has been removed and request it be withdrawn.

4. *Claim rejections under 35 U.S.C. §103*

The Examiner rejected claims 1-8, 10-17, 19-21, 23-31, 34-42, and 45-49 under 35 U.S.C. §103(a) as being unpatentable over Cyr et al., U.S. Pat. No. 6,455,620 ("Cyr"). The Examiner alleged Cyr discloses a composition which may contain a gas barrier polymer such as EVOH and an oxygen scavenger. Applicants respectfully traverse this rejection.

The present claims are directed to compositions comprising an "... oxygen barrier polymer, an oxygen scavenging polymer, a photoinitiator ... wherein the oxygen barrier polymer is selected from poly(ethylene/vinyl alcohol) (EVOH), polyacrylonitrile (PAN), copolymers comprising acrylonitrile, or poly(vinylidene dichloride) (PVDC); and the oxygen scavenging polymer is a polyamide oligomer or polymer derived at least in part from a xylylene diamine-based monomer ...". The detailed description of Cyr discusses only poly(alkylene glycol) oxygen scavengers and does not discuss compositions where the "oxygen scavenging polymer is a polyamide oligomer or polymer derived at least in part from a xylylene diamine-based monomer." Thus, Cyr does not suggest or teach the limitations of the present claims.

Additionally, while Cyr does refer to oxygen scavengers comprising m-xylylene diamine adipate as being known in the art, Cyr dismisses it and other "oxygen barrier and scavenging technology known in the art" as technologies which do not "fully address the needs for an optimum package" (col. 2, lines 31-33). Cyr thus teaches away from the use of the applicant's claimed compositions.

For these reasons, Applicants respectfully request this rejection of claims 1-8, 10-17, 19-21, 23-31, 34-42, and 45-49 be withdrawn.

5. *Claim objections*

The Examiner objected to claims 32-33 as being dependent on a rejected base claim, but indicated these claims would be allowable if rewritten in independent form. Applicants acknowledge the Examiner's statement regarding claims 32-33, but submit that the base claim, in light of the foregoing amendments and arguments, is allowable, and therefore the basis of the objection has been removed.

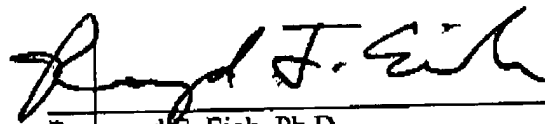
6. *Final remarks*

Applicants respectfully submit all pending claims 1-8, 10-17, 19-21, 23-42, and 45-49 are in condition for allowance. The Examiner is invited to contact the undersigned patent agent at (713) 934-4065 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

WILLIAMS, MORGAN & AMERSON, P.C.
CUSTOMER NO. 37774

September 1, 2004



Raymund F. Eich, Ph.D.
Reg. No. 42,508
10333 Richmond, Suite 1100
Houston, Texas 77042
(713) 934-4065
(713) 934-7011 (fax)

AGENT FOR APPLICANTS